

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

GINSENG BOARD OF WISCONSIN, INC.,

Plaintiff,

Case No. 3:13-cv-186

vs.

SIMON KO,
KUB CORPORATION, and
AMERICAN GINSENG ASSOCIATION,
HEALTH FOOD PRODUCTS
MANUFACTURING, INC.

Defendants.

CONSENT DECREE, ORDER FOR JUDGMENT AND JUDGMENT

Consent Decree

WHEREAS the parties have agreed to resolve this case pursuant to the terms of a *Settlement Agreement* entered into between them, without adjudication of any issue of fact or law, the terms of which provide, inter alia, for the execution and entry of this *Consent Decree and Order*.

NOW THEREFORE, on the joint motion of Plaintiff and Defendants, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

Jurisdiction

1. This Court has jurisdiction of the subject matter and of the parties.

Injunctive Relief

2. Simon Ko, Kub Corporation, and American Ginseng Association, Health Food Products Manufacturing, Inc., their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them, shall permanently and forever cease, desist and refrain from:

(a) using GBW's Certification Mark (USPTO registration no. 1755967), or any other mark which is confusingly similar to GBW's certification mark, in any illegal way or manner, including but not limited to use in conjunction with the sale, offering for sale, advertisement or marketing of ginseng or products containing ginseng;

(b) doing any other illegal act or thing likely to induce the belief that any ginseng or products containing ginseng which are sold, offered for sale, or marketed by them are in any way sponsored, affiliated, licensed, endorsed or certified by GBW;

(c) making any false or unverified claims or statements in any media whatsoever, including but not limited to packaging, print ads, websites, and radio and television broadcasts concerning the origin; qualities; nutritional value; characteristics; growing conditions; method of production; method of manufacture; method of processing; or the certification, testing or approval by any government, governmental agency or organization, or any other entity concerning ginseng or products containing ginseng which they advertise, sell or offer for sale, or otherwise dispense or distribute in any manner whatsoever; and

(d) violating Wis. Stats. §94.50, or any other Wisconsin statute; any rules or regulations promulgated and/or enforced by Wisconsin's Department of Agriculture, Trade and Consumer Protection; or any statutes, rules or regulations of the United States concerning the growing, manufacture, production, packaging, importing, exporting or sale of ginseng or products containing ginseng.

Costs of Action

3. Each party shall bear the attorney fees, costs and disbursements each has incurred in prosecuting or defending this action.

The parties, by their counsel, hereby consent to the terms and conditions of the *Consent Decree* as set forth above, and consent to the entry thereof.

Dated this 26th day of April, 2013.

HOPKINS McCARTHY LLC

by: /s/ Michael T. Hopkins.
Michael T. Hopkins (WI SBN: 1014792)
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Attorney for Plaintiff,
Ginseng Board of Wisconsin, Inc.

COYNE, SCHULTZ, BECKER & BAUER, S.C.

by: /s/ Vincent J. Scipior

Vincent J. Scipior (SBN:1085069)

email:

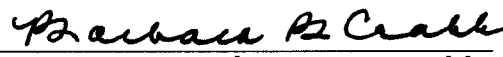
Coyne, Schultz, Becker & Bauer, S.C.
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Tel: 608-255-1388 / Fax: 608-255-8592

Attorneys for Defendants

Order for Judgment

BASED UPON THE FOREGOING, it is hereby **ORDERED** that judgment be entered in favor of the Plaintiff, Ginseng Board of Wisconsin, Inc., and against the Defendants, Simon Ko; KUB Corporation; and American Ginseng Association, Health Food Products Manufacturing, Inc., pursuant to all of the terms and conditions recited above in said *Consent Decree*, and that the Clerk should enter judgment accordingly.

Dated this 21st day of April, 2013.



Honorable Barbara B. Crabb
U.S. District Court Judge

Judgment

BASED UPON THE FOREGOING *Consent Decree* and *Order for Judgment*, judgment is hereby entered in favor of Plaintiff, Ginseng Board of Wisconsin, Inc., and against Defendants, Simon Ko; KUB Corporation; and American Ginseng Association, Health Food Products Manufacturing, Inc., permanently enjoining the Defendants from:

(a) using GBW's Certification Mark (USPTO registration no. 1755967), or any other mark which is confusingly similar to GBW's certification mark, in any illegal way or manner, including but not limited to use in conjunction with the sale, offering for sale, advertisement or marketing of ginseng or products containing ginseng;

(b) doing any other illegal act or thing likely to induce the belief that any ginseng or products containing ginseng which are sold, offered for sale, or marketed by them are in any way sponsored, affiliated, licensed, endorsed or certified by GBW;

(c) making any false or unverified claims or statements in any media whatsoever, including but not limited to packaging, print ads, websites, and radio and television broadcasts concerning the origin; qualities; nutritional value; characteristics; growing conditions; method of production; method of manufacture; method of processing; or the certification, testing or approval by any government, governmental agency or organization, or any other entity concerning ginseng or products containing ginseng which they advertise, sell or offer for sale, or otherwise dispense or distribute in any manner whatsoever; and

(d) violating Wis. Stats. §94.50, or any other Wisconsin statute; any rules or regulations promulgated and/or enforced by Wisconsin's Department of Agriculture,

Trade and Consumer Protection; or any statutes, rules or regulations of the United States concerning the growing, manufacture, production, packaging, importing, exporting or sale of ginseng or products containing ginseng;

and that each party shall bear its own costs, attorney fees and disbursements.

Dated this 30th day of April, 2013.

By: Fyne Kamb Deputy Clerk
Clerk, U.S. District Court
Western District of Wisconsin